

1 ROBERT ELIAS VENTURA (V# 80485)
2 LORCORAN STATE PRISON (SHU)
3 P.O. BOX 3476
4 CORCORAN, CA., 93212.

FILED

00 JUN 19 PM 12:29

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8
9 ROBERT E. VENTURA,
10 PETITIONER,

11 V.

12 DARREL ADAMS, WARDEN,
13 RESPONDENT. 1

NO. C 08-01708 SBA (PR)

MOTION FOR RECONSIDERATION
(F.R.C.P. RULE 60 (b)) ;

AND AMENDED MOTION
FOR APPOINTMENT OF

COUNSEL. (28 U.S.C.
§ 2255 RULES, 8 (c.)).

14
15
16 TO THE HONORABLE UNITED STATES DISTRICT COURT
17 JUDGE SAUNDRA BROWN ARMSTRONG PRESIDING IN THE ABOVE
18 ENTITLED COURT :

19 I, ROBERT ELIAS VENTURA, PETITIONER, A LAYMAN -
20 AT-LAW, HEREIN MOVES THIS HONORABLE COURT FOR
21 RECONSIDERATION PURSUANT TO FEDERAL RULES OF CIVIL
22 PROCEDURE - RULE 60 (b) IN ORDER OF DENIAL ON
23 PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL.

24 THIS MOTION IS BASED UPON THE MOVANT -
25 PETITIONER'S AFFIDAVIT IN SUPPORT OF HIS MOTION
26 FOR RECONSIDERATION AND AMENDED MOTION FOR
27 APPOINTMENT OF COUNSEL IN THE FOREGOING MATTER.
28 AS WELL AS THE WITHIN STATEMENT OF FACTS AND

1 CONTENTIONS IN MEMORANDUM OF POINTS AND
2 AUTHORITIES .
3

4 FACTS
5

6 ON MARCH 28, 2008 PETITIONER FILED A
7 NOTICE OF APPEAL IN YOUR RESPECTIVE COURT FROM
8 FINAL JUDGEMENT AN ORDER OF DENIAL ON PETITION
9 FOR REVIEW. ALSO, ON MARCH 28, 2008 PETITIONER
10 FILED A MOTION FOR APPOINTMENT OF COUNSEL.

11 PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL
12 WAS DONE HASTILY, IN LAYMAN FORM, AND LACKED
13 ANY LEGAL STANDING. ON MAY 30, 2008, JUDGE
14 SAUNDRA BROWN ARMSTRONG DENIED WITHOUT
15 PREJUDICE; ON THE COURT'S SUA SPONTE RECONSIDERATION
16 DEPENDENT OF THE COURT'S FINDING OF NECESSITY
17 OF AN EVIDENTIARY HEARING FOLLOWING CONSIDERATION
18 OF THE MERITS OF PETITIONER'S CLAIMS. PETITIONER'S
19 HEREIN NOW BRINGS AN AMENDED MOTION FOR
20 APPOINTMENT OF COUNSEL.
21

22
23 CONTENTIONS
24

25 LEGAL AUTHORITY FOR APPOINTMENT AND
26 COMPENSATION OF COUNSEL IS ARTICLE 1, SECTION
27 §15 OF THE CALIFORNIA CONSTITUTION; THE SIXTH
28

1 AMENDMENT OF THE U.S. CONSTITUTION; 23 U.S.C.,
 2 SECTION § 1915(d); 18 U.S.C., SECTION § 3006
 3 A(9), AS INTERPRETED IN MCCLAIR V. MANSON,
 4 343 F.SUPP. 382 [D. CONN. 1972]; PAYNE V.
 5 SUPERIOR COURT, (1975) 17 CAL. 3d 908; SALAS V.
 6 CORTEZ (1978) 24 CAL. 3d 22; PRICE V. JOHNSON,
 7 161 F.2d 705; YARBOROUGH V. SUPERIOR COURT,
 8 (1983) 150 CAL. APP. 3d 388; AND CALIFORNIA'
 9 PENAL CODE, SECTION § 1191.1, WHICH EXPRESSLY
 10 GRANTS A RIGHT TO COUNSEL AND EQUAL PROTECTION
 11 TO INDIGENT IMPRISONED INMATES UPON REQUEST.

12 "AS A MATTER OF EQUAL PROTECTION AND DUE
 13 PROCESS UNDER BOTH THE FEDERAL AND CALIFORNIA
 14 CONSTITUTIONS A PRISONER AS A DEFENDANT (OR
 15 PETITIONER OR PLAINTIFF) IN A 'BONA FIDE LEGAL
 16 ACTION THREATENING HIS INTEREST', IS EXPOSED TO
 17 JUDICIALLY SANCTIONED DEPRIVATIONS AND IS ENTITLED
 18 TO ACCESS TO THE COURTS IN ORDER TO HAVE A
 19 'MEANINGFUL OPPORTUNITY TO BE HEARD AND TO
 20 HAVE ASSISTANCE OF COMPETENT COUNSEL!'"

21 YARBOROUGH V. SUPERIOR, SUPRA CITING PAYNE
 22 V. SUPERIOR COURT, SUPRA.

23 MOREOVER, PETITIONER REQUESTS THAT
 24 COUNSEL BE APPOINTED IN THIS MATTER SO THAT
 25 PETITIONERS INTERESTS MAY BE PROTECTED BY
 26 THE PROFESSIONAL ASSISTANCE REQUIRED. Additionally,
 27 WHEN A COURT ISSUES AN ORDER TO SHOW CAUSE,
 28 COUNSEL MUST BE APPOINTED FOR AN INDIGENT

1 PETITIONER WHO REQUESTS COUNSEL. (18 U.S.C. §
 2 3006 A. (9).) IF AN EVIDENTIARY HEARING IS
 3 ORDERED, THIS DISCRETIONARY POWER BECOMES A
 4 MANDATORY RULE FOR APPOINTMENT. (FEDERAL
 5 HABEAS RULE 8(C).) GENERAL COUNSEL SHOULD BE
 6 APPOINTED WHERE "FUNDAMENTAL FAIRNESS" REQUIRES
 7 IT. (SEE SCHULTZ V. WAINWRIGHT (11TH CIR. 1983)
 8 701 F.2d 722, 728-730; Williams V.
 9 MISSOURI (8TH CIR. 1981) 640 F.2d 140, 144
 10 CERT. DEN. 451 U.S. 990; SEE WIKES § 8-41.)

11 FEDERAL JUDGES ALSO HAVE THE DISCRETION
 12 TO APPOINT COUNSEL IN OTHER CIRCUMSTANCES IF IT
 13 IS IN THE INTERESTS OF JUSTICE; COURTS MAKING
 14 SUCH A DETERMINATION WILL CONSIDER THE STRENGTH
 15 OF THE ISSUES, THE PETITIONERS ABILITY TO
 16 ARTICULATE THE CLAIMS AND THE COMPLEXITY OF
 17 THE CASE. (18 U.S.C. § 3006 A, 28 U.S.C. §§ 1915
 18 (d), 2254 (h) FEDERAL RULES OF HABEAS
 19 CORPUS, RULE 8(C); BASHOR V. RISLEY (9TH CIR.
 20 1984) 730 F.2d 1228.)

21 IN CERTAIN EXCEPTIONAL CIRCUMSTANCES, THE
 22 COURT MAY REQUEST THE VOLUNTARY ASSISTANCE OF
 23 COUNSEL PURSUANT TO 28 U.S.C. § 1915 (e)(1).
 24 TERREL V. BREWER, 935 F.2d 1015, 1017 (9TH CIR.
 25 1991). [A FINDING OF EXCEPTIONAL CIRCUMSTANCES
 26 REQUIRES AN EVALUATION OF BOTH THE LIKELIHOOD OF
 27 THE PETITIONER TO ARTICULATE HIS CLAIMS PRO SE IN
 28 LIGHT OF THE COMPLEXITY OF THE LEGAL ISSUES

1 INVOLVED ; NEITHER OF THESE FACTORS IS DISPOSITIVE
 2 AND BOTH MUST BE VIEWED TOGETHER BEFORE
 3 REACHING A DECISION. WILBURN V. ESCALDERON ,
 4 789 F. 2d 1328 AT 1331 (9TH CIR. 1986) TERREL
 5 DEMONSTRATED SUFFICIENT WRITING ABILITY AND
 6 LEGAL KNOWLEDGE TO ARTICULATE HIS CLAIM.] ;
 7 WOOD V. HOUSEWRIGHT , 900 F. 2d 1332, 1335-
 8 36 (9TH CIR. 1990) [10] COUNSEL SHOULD ONLY
 9 BE APPOINTED IN EXCEPTIONAL CIRCUMSTANCE ,
 10 BASED ON SUCH FACTORS AS THE LIKELIHOOD OF
 11 SUCCESS ON THE MERITS AND THE ABILITY OF THE
 12 PETITIONER TO ARTICULATE HIS CLAIMS IN LIGHT OF
 13 THEIR COMPLEXITY. WILBURN V. ESCALDERON , 789
 14 F. 2d 1328 AT 1331 (9TH CIR. 1986). THE INSTANCES
 15 THAT WOOD CLAIMS INDICATE THE PRESENCE OF THESE
 16 FACTORS ARE DIFFICULTIES WHICH ANY LITIGANT WOULD
 17 HAVE IN PROCEEDING PRO SE ; THEY DO NOT INDICATE
 18 EXCEPTIONAL FACTORS. Affirmed.]

19 I DECLARE UNDER PENALTY OF PERJURY THAT
 20 THE FOREGOING IS TRUE AND CORRECT, AND THAT THIS
 21 DECLARATION WAS EXECUTED ON THIS DATE 6-12-08
 22 AT CORCORAN, CALIFORNIA.

23
 24 DATED: 6-12-08 .

25 Respectfully Submitted,
 26 Ventura
 27 ROBERT ELIAS VENTURA

28 //

PRAYER FOR RELIEF

WHEREFORE, PETITIONER PRAYS FOR THE following relief: AND IS WITHOUT REMEDY SAVE BY WRIT OF HABEAS CORPUS. WHEREFORE, PETITIONER PRAYS THAT THE COURT:

1.) GRANT MOTION FOR RECONSIDERATION PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE, RULE 60(b);

2.) REHEAR AND GRANT PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL;

3.) ISSUE AND ORDER TO SHOW CAUSE;

4.) CONDUCT AN EVIDENTIARY HEARING;

5.) ALLOW PETITIONER TO CONDUCT DISCOVERY;

6.) DECLARE PETITIONER'S RIGHTS;

7.) APPOINT COUNSEL AND AWARD REASONABLE ATTORNEY FEE'S;

8.) GRANT SUCH FURTHER RELIEF AS THE COURT DEEMS JUST AND PROPER.

DATED: 6-12-08

Respectfully Submitted,
Robert Elias Ventura
ROBERT ELIAS VENTURA
(PETITIONER IN PRO-SE.).

PETITIONER'S AFFIDAVIT

1
2
3 1.) I, ROBERT ELIAS VENTURA, DECLARE THAT
4 I AM THE PETITIONER IN THE ABOVE - REFERENCED
5 MATTER, THAT I AM INCARCERATED AT CALIFORNIA
6 STATE PRISON AT CORCORAN (SHU), AND THAT I AM
7 INDIGENT AND ILLITERATE AND UNABLE TO AFFORD
8 COUNSEL. MY TOTAL ASSETS ARE \$ 00.00 AND MY
9 INCOME IS \$ 00.00 PER MONTH;

10 2.) I AM THE PETITIONER IN A 28 U.S.C. § 2254
11 A PETITION FOR WRIT OF HABEAS CORPUS IN THE
12 UNITED STATES DISTRICT COURT;

13 3.) THE ISSUES INVOLVED IN THIS CASE ARE
14 FACTUALLY COMPLEX AND LEGALLY INTRICATE AND
15 HARD FOR ME TO COMPREHEND AND UNDERSTAND THE
16 CASE AT ISSUE. (SEE EXHIBIT _____) ;

17 4.) PETITIONER CONTENDS THAT THE DISTRICT
18 COURT JUDGES JUDGEMENT IN THE INSTANT
19 MATTER WAS BASED ON AN ERRONEOUS LEGAL
20 PREMISE OR A MISUNDERSTANDING OF THE FACTS
21 THAT COULD BE READILY CORRECTED BY
22 RECONSIDERATION AND REHEARING ;

23 5.) PETITIONER DOES NOT ATTACK THE SUBSTANCE
24 OF THE DISTRICT JUDGES RESOLUTION OF HIS CLAIMS
25 ON THE MERITS, BUT SOME DEFECTS IN THE
26 INTEGRITY OF THE HABEAS CORPUS FEDERAL
27 PROCEEDING (i.e. Denial of motion for
28 appointment of counsel.) ;

6.) PETITIONER WON'T BECOME LITERATE AND LEARN ANY MINIMAL LAW WITHIN THE AMOUNT OF TIME IT TAKES TO PROCESS THIS 28 U.S.C. § 2254 PETITION FOR WRIT OF HABEAS CORPUS IN THE UNITED STATES DISTRICT COURT ;

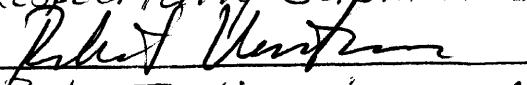
7.) PETITIONER IS CONFINED IN A SECURITY HOUSING UNIT AND HAS VIRTUALLY NO VIABLE ACCESS TO A LAW LIBRARY OR LEGAL MATERIALS ;

8.) THE PETITIONERS FRIEND (LEONEL CANO , F#53299) WAS AN INMATE WHO NO LONGER RESIDES AT C.S.P. - CORCORAN (SHU) AND ASSISTED PETITIONER TO WRITE BOTH THE 28 U.S.C. § 2254 IN THE U.S. DISTRICT COURT AND THIS MOTION FOR RECONSIDERATION ;

9.) PETITIONER HAS NO ASSISTANCE IN LAW AND WITHOUT HIS FRIEND PETITIONER HAS NO ASSISTANCE IN THE LAW ;

10.) PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL AT ALL STAGES - TRIAL THRU APPEALS PROCESS - IN THE STATE COURT LEVEL. (SEE EX. —);

I, ROBERT ELIAS VENTURA, DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT, AND THAT THIS AFFIDAVIT WAS EXECUTED ON THIS DATE 6-12-08 AT CORCORAN, CALIF.

Respectfully Submitted,

 ROBERT ELIAS VENTURA
 (PETITIONER IN PRO-SE).

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

May 9, 2008

Robert Ventura, CDC# V-80485
CSP – Corcoran
P. O. Box 3476
Corcoran, Ca 93212-3476

Re: **S162926 – Ventura (Robert) on H.C. (review)**

Dear Mr. Ventura:

Returned unfiled are your copies received May 8, 2008. Our records indicate that you have the above-referenced petition for review pending with this court, and there is no provision in the Rules of Court to supplement such a petition. The court is expected to decide this petition on or before June 11, 2008. A copy of that decision will be mailed to you the same day it is filed.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in cursive script, appearing to read "Joseph Cornetta".

By: Joseph Cornetta, Deputy Clerk

Enc.

☐ SAN FRANCISCO 94102
EARL WARREN BUILDING
350 McALLISTER STREET
(415) 865-7000

☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 830-7570

FILED

MAY 30 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. VENTURA,

No. C 08-01708 SBA (PR)

Petitioner,

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL**

v.

DARREL ADAMS, Warden

Respondent.

Petitioner has requested appointment of counsel in this action.

The Sixth Amendment right to counsel does not apply in habeas corpus actions. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). Title 18 U.S.C. § 3006A(a)(2)(B), however, authorizes a district court to appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require" and such person is financially unable to obtain representation. The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Knaubert, 791 F.2d at 728; Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984). The courts have made appointment of counsel the exception rather than the rule by limiting it to: (1) capital cases; (2) cases that turn on substantial and complex procedural, legal or mixed legal and factual questions; (3) cases involving uneducated or mentally or physically impaired petitioners; (4) cases likely to require the assistance of experts either in framing or in trying the claims; (5) cases in which petitioner is in no position to investigate crucial

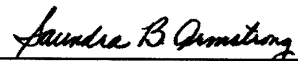
1 facts; and (6) factually complex cases. See generally 1 J. Liebman & R. Hertz, Federal Habeas
2 Corpus Practice and Procedure § 12.3b at 383-86 (2d ed. 1994). Appointment is mandatory only
3 when the circumstances of a particular case indicate that appointed counsel is necessary to prevent
4 due process violations. See Chaney, 801 F.2d at 1196; Eskridge v. Rhay, 345 F.2d 778, 782 (9th Cir.
5 1965).

6 At this early stage of the proceedings the Court is unable to determine whether the
7 appointment of counsel is mandated for Petitioner. Accordingly, the interests of justice do not
8 require appointment of counsel at this time, and Petitioner's request is DENIED. This denial is
9 without prejudice to the Court's sua sponte reconsideration should the Court find an evidentiary
10 hearing necessary following consideration of the merits of Petitioner's claims.

11 This Order terminates Docket no. 2.

12 IT IS SO ORDERED.

13 Dated: 5/29/08

14 
15 SAUNDRA BROWN ARMSTRONG
16 United States District Court Judge
17
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27
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 ROBERT E. VENTURA,

5 Plaintiff,

6 v.

7 DARREL ADAMS et al,

8 Defendant.
9 _____/

Case Number: CV08-01708 SBA

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
11 Northern District of California.

12 That on May 30, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
15 in the Clerk's office.

16 Robert Elias Ventura V-80485
17 CSP - Corcoran State Prison
18 P.O. Box 3476
19 Corcoran, CA 93212-3476

20 Dated: May 30, 2008

21 Richard W. Wieking, Clerk
22 By: LISA R CLARK, Deputy Clerk
23
24
25
26
27
28

PROOF OF SERVICE BY MAIL

I, Robert Elias Ventura, declare that I am over 18 years of age, and a party to the attached herein cause of action, that I reside at California State Prison at Corcoran, in the County of King, California.

My mailing address is: C.S.P - SHU - 4A-3L-41

P.O. Box 3476 CORCORAN CAL. 93212-3476

On APRIL 17, 2008, I delivered to prison officials for mailing, at the

above address, the attached: Motion For Counsel AND Application

For Waiver of Court Fees AND Costs. Supreme Court

CASE NO. [#]HD32716 / CC455119; Declaration; Transcripts Rule 33(A)
Rule 35(B)

in sealed envelope(s), with postage fully prepaid, and addressed to the following:

(1) Frederick K. O'HIRICH

(2) Attorney General

350 Mc Allister Street

455 Golden Gate Ave (Suite 11000)

San Francisco CA 94102

San Francisco, CA 94102

(3) _____

(4) _____

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 17 day of APRIL, 2008, at California State Prison, Corcoran.

Robert Elias Ventura
 In Pro Per

Proof of Service – Mail

PROOF OF SERVICE

Re: Case Number S162926

Case Title Ventura (Robert) on H.C. (review)

I hereby declare that I am a citizen of the United States, am over 18 years of age, and ~~am~~ am not a party in the above-entitled action. I am employed in ~~reside in~~ the County of San Francisco and my business ~~residence~~ address is 350 McAllister, room 1295, San Francisco, Ca 94102

On April 23, 2008, I served the attached document described as a petition for review

on the parties in the above-named case. I did this by enclosing true copies of the document in sealed envelopes with postage fully prepaid thereon. I then placed the envelopes in a U.S. Postal Service mailbox in San Francisco, California, addressed as follows:

Office of the Attorney General
San Francisco
455 Golden Gate Avenue
Suite 11000
San Francisco, Ca 94102

COURT OF APPEAL
SIXTH APPELLATE DISTRICT
333 W. SANTA CLARA ST.
SAN JOSE, CA 95113

I, Joseph Cornetta, declare under penalty of perjury that the foregoing is true and correct.

Executed on April 23, 2008, at 350 McAllister
San Francisco, California.

Joseph Cornetta
Signature

RECEIVED

S162926

1 Robert Ventura - CDCR # V80485

2 CSP-Corcoran SHU 4A 3L-3

3 P.O. Box 3476

4 Corcoran, CA. 93212-3476

5 In Propria Persona

6 IN THE CALIFORNIA SUPREME COURT
7
8

9 Robert Ventura

10 Petitioner,

11
12 On Habeas Corpus

NO. H032716 / NO. C2455114

REQUEST FOR APPOINTMENT

OF COUNSEL AND DECLARATION

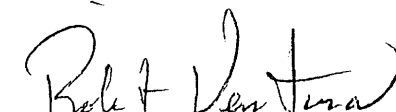
OF INDIGENCY

13
14
15 I, Robert Ventura, declare that I am a petitioner to the above-referenced matter, that
16 I am incarcerated at CSP-Corcoran SHU, and that I am indigent and unable to afford counsel.
17 My total assets are \$00.00 and my income is \$ 00.00 per month.

18 I hereby request that counsel be appointed in this matter so that my interests may
19 be protected by the professional assistance required. Government Code § 15421; Penal Code
20 § 1240; Griffin v. Illinois (1956) 351 U.S. 12 [76 S.Ct. 585; 100 L.Ed. 891]; Douglas v. California
21 (1963) 372 U.S. 353 [9 L.Ed. 2d 811]; In re Henderson (1964) 61 Cal.2d 541 [39 Cal. Rptr. 373].

22 In addition, when a court issues an order to show cause, counsel must be appointed for
23 an indigent petitioner who request counsel. California Rules of Court, rule 4.551 (c)(2).

24 I declare under penalty of perjury that the foregoing is true and correct and that
25 this declaration was executed on APRIL 17, 2008.

26
27 
28 Petitioner

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA - SIXTH APPELLATE DIST.

SIXTH APPELLATE DISTRICT

FILED

MAR 24 2008

MICHAEL J. YERBY, CLERK

By _____ DEPUTY

In re ROBERT VENTURA,
on Habeas Corpus.

H032716
(Santa Clara County
Super. Ct. No. CC455119)

BY THE COURT:

The petition for writ of habeas corpus is denied.

(Bamattre-Manoukian, Acting P.J., Mihara, J., and McAdams, J.,
participated in this decision.)

BAMATTRE-MANOUKIAN, J.

Dated MAR 24 2008 _____ Acting P.J.

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

April 24, 2008

Robert Ventura, CDC# V-80485
California State Prison, Corcoran
P. O. Box 3476
Corcoran, Ca 93212

Re: S162926 – Ventura (Robert) on H.C. (review)

Dear Mr. Ventura:

No action may be taken on your request to appoint counsel to represent you in the above-referenced case. The court does not appoint counsel in these matters unless review is granted. Should the court issue an order granting review, you will be notified and provided with the appropriate form to assist this office with the appointment of counsel to represent you.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in cursive script, reading "Joseph Cornetta".

By: Joseph Cornetta, Deputy Clerk

- ☐ SAN FRANCISCO 94102
EARL WARREN BUILDING
350 McALLISTER STREET
(415) 865-7000
- ☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 830-7570

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

OFFICE OF THE STATE PUBLIC DEFENDER

221 Main Street, 10th Floor
San Francisco, California 94105
Telephone: (415) 904-5600
Fax: (415) 904-5635



April 4, 2008

Mr. Robert Ventura
V-80485
P.O. Box 3476
Corcoran, CA 93212

Dear Mr. Ventura:

This office has received your letter requesting our assistance in challenging your convictions for domestic violence and assault with a deadly weapon. I am sorry, but our office only represents people who have been sentenced to death and only in, and by appointment of, the California Supreme Court. We are not allowed to represent anyone else on any other matters.

I would recommend that you contact the appellate project serving Santa Clara County, where you were convicted. They should be able to provide you with the information you need about the process of challenging a conviction. The following is their contact information:

Sixth District Appellate Program
100 N. Winchester Blvd., Suite 310
Santa Clara, CA 95050
408-241-6171

Again, I am sorry that this office cannot be of assistance to you. Best of luck with your case.

Sincerely,

A handwritten signature in black ink, appearing to be "C. Delaine Renard", written over a circular stamp or seal.
C. Delaine Renard
Deputy State Public Defender

47

Robert Elias Ventura CDC # V-80485

CSP-CORCORAN 4A-32-44

P.O. Box 3476

CORCORAN, CA. 93212-3476

E-filing

FILED
JUN 28 PM 3:04
NICHOLAS V. WEAVER
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA

Robert Elias Ventura

PLAINTIFF

No.

SBA

V.

ADAMS (WARDEN)

DEFENDANT

REQUEST FOR APPOINTMENT OF
COUNSEL AND DECLARATION OF
INDIGENCY IN SUPPORT

(PR)

I, Robert Elias Ventura, DECLARE THAT I AM A PETITIONER
TO THE ABOVE-REFERENCED MATTER, THAT I AM INCARCERATED AT CSP-
CORCORAN, AND THAT I AM INDIGENT AND ILLITERATE AND UNABLE TO
AFFORD COUNSEL. MY TOTAL ASSETS ARE \$ 00.00 AND MY INCOME IS
\$ 00.00 PER MONTH.

I HEREBY REQUEST THAT COUNSEL BE APPOINTED IN THIS MATTER SO
THAT MY INTERESTS MAY BE PROTECTED BY THE PROFESSIONAL ASSISTANCE
REQUIRED. IN ADDITION, WHEN A COURT ISSUES AN ORDER TO SHOW CAUSE,
COUNSEL MUST BE APPOINTED FOR AN INDIGENT PETITIONER WHO REQUEST
COUNSEL. (18 U.S.C. § 3006 A.(9).) IF AN EVIDENTIARY HEARING IS ORDERED,
THIS DISCRETIONARY POWER BECOMES A MANDATORY RULE FOR APPOINTMENT.
(FEDERAL HABEAS RULE 8 (c).) GENERAL COUNSEL SHOULD BE APPOINTED
WHERE "FUNDAMENTAL FAIRNESS" REQUIRES IT. (see SCHULTZ V. WAINWIR

NOTICE OF APPEAL TO A COURT OF APPEALS FROM A JUDGMENT.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FILED
MAR 28 PM 3:03
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

ROBERT ELIAS VENTURA

PLAINTIFF

V.

DARREL ADAMS,

DEFENDANT.

Notice OF APPEAL

CV 08

1708

NO.

SBA

(PR)

Notice is HEREBY given THAT ROBERT ELIAS VENTURA
PLAINTIFF IN THE ABOVE NAMED CASE, HEREBY APPEAL to the
UNITED STATES COURT OF APPEALS FOR THE SUPREME
COURT OF CALIFORNIA FROM THE FINAL Judgment From
AN ORDER (THE Petition FOR Review is Denied). SEE
ATTACHED DOCUMENT..

ENTERED IN THIS ACTION ON THE 12 DAY OF MARCH,
2008.

DATED: March 21 2008

Respectfully Submitted
Robert Ventura

ROBERT VENTURA - CDCR # V-80485
 SP-CORCORAN (SHU) 4A 3L-3
 P.O. BOX 3476
 CORCORAN, CA. 93212-3476

In Pro Per

IN THE CALIFORNIA SUPREME COURT
 COUNTY OF SAN FRANCISCO

In re

Robert Ventura

On Habeas Corpus

No. S160550

REQUEST FOR APPOINTMENT
 OF COUNSEL AND DECLARATION
 OF INDIGENCY
RECEIVED

MAR 3 - 2008

CLERK SUPREME COURT

I, Robert Ventura, declare that I am a petitioner to the above-referenced matter, that I am incarcerated at [place prison here), and that I am indigent and unable to afford counsel. My total assets are \$ 0 and my income is \$ 0 per month.

I hereby request that counsel be appointed in this matter so that my interests may be protected by the professional assistance required. In addition, when a court issues an order to show cause, counsel must be appointed for an indigent petitioner who requests counsel. California Rules of Court, rule 4.551 (c)(2).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 25, 2008.



Petitioner

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

☒ SAN FRANCISCO 94102
EARL WARREN BUILDING
350 McALLISTER STREET
(415) 865-7000

☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 830-7570

January 24, 2008

Robert Ventura V-80485
CSP- Corcoran
P.O. Box 3476
Corcoran, CA 93212-3476

Re: **H032325- VENTURA ON HABEAS CORPUS**

Dear Mr. Ventura:

The court does not appoint counsel for filing a petition for review. The record discloses that the Court of Appeal filed an order denying your petition on January 9, 2008. Under court rules, the last day a petition for review could be timely filed was January 19.

An original and ten legible typewritten copies of a petition for review are required. Each must have a copy of the Court of Appeal decision attached. Service of a copy on the Court of Appeal and on the Office of the Attorney General is also required.

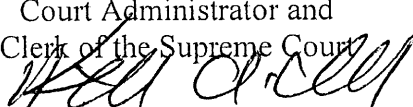
For good cause, the court may permit a late filing. In addition to the petition for review as described above, you must also submit an original only of an "Application for Relief from Default" which explains the reasons for failing to file a timely petition. The application must also contain the following signed declaration: "I declare under penalty of perjury that the above is true and correct."

After February 8, 2008, this court loses jurisdiction to consider or grant any relief of any nature in this case.

If you are unable to meet this deadline, you may file a habeas corpus petition. A form is enclosed.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court


By: Kenneth Wagovich, Senior Deputy Clerk

Enclosure

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

☒ SAN FRANCISCO 94102
EARL WARREN BUILDING
350 McALLISTER STREET
(415) 865-7000

☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 830-7570

January 24, 2008

Robert Ventura V-80485
CSP- Corcoran
P.O. Box 3476
Corcoran, CA 93212-3476

Re: **H032454- VENTURA ON HABEAS CORPUS**

Dear Mr. Ventura:

The court does not appoint counsel for filing a petition for review. The record discloses that the Court of Appeal filed an order denying your petition on January 8, 2008. Under court rules, the last day a petition for review could be timely filed was January 18.

An original and ten legible typewritten copies of a petition for review are required. Each must have a copy of the Court of Appeal decision attached. Service of a copy on the Court of Appeal and on the Office of the Attorney General is also required.

For good cause, the court may permit a late filing. In addition to the petition for review as described above, you must also submit an original only of an "Application for Relief from Default" which explains the reasons for failing to file a timely petition. The application must also contain the following signed declaration: "I declare under penalty of perjury that the above is true and correct."

After February 7, 2008, this court loses jurisdiction to consider or grant any relief of any nature in this case.

If you are unable to meet this deadline, you may file a habeas corpus petition. A form is enclosed.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

By: Kenneth Wagovich, Senior Deputy Clerk

Enclosure

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

Court of Appeal - Sixth App. Dist.

FILED

JAN 8 - 2008

MICHAEL J. YEHLY, Clerk

In re ROBERT VENTURA,

on Habeas Corpus.

H032454
(Santa Clara County
Super. Ct. No. CC455119)

By _____
DEPUTY

BY THE COURT:

The petition for writ of habeas corpus is denied.

(Premo, Acting P.J., Elia, J., and Duffy, J., participated in this decision.)

Dated JAN 8 - 2008 PREMO, J. Acting P.J.

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

Court of Appeal - Sixth App. Dist.
FILED

JAN 9 - 2008

MICHAEL J. YEHELY, Clerk

By
DEPUTY

In re ROBERT VENTURA,

on Habeas Corpus.

H032325
(Santa Clara County
Super. Ct. No. CC455119)

BY THE COURT:

The petition for writ of habeas corpus, seeking an extension of time to file an opening brief on "appeal," is denied without prejudice. There is no appeal from the denial of a habeas petition by the superior court; rather, the petitioner must file an original habeas petition in the reviewing court. (*In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7.)

Petitioner's request for appointment of counsel is denied without prejudice.

(Elia, Acting P.J., and Duffy, J., participated in this decision.)

Dated JAN 9 - 2008 ELIA, J. Acting P.J.

13

SIXTH DISTRICT APPELLATE PROGRAM

A Non-Profit Corporation

100 N Winchester Blvd., Suite 310
Santa Clara, CA 95050

(408) 241-6171 - Main
(408) 241-2877 - Fax

Executive Director
Michael A. Kresser

Assistant Director
Dallas Sacher

Law Office Manager
Yolanda Edwards

Staff Attorneys
Lori A. Quick
Vicki I. Firstman
William M. Robinson
Jonathan Grossman
Paul Couenhoven

January 7, 2008

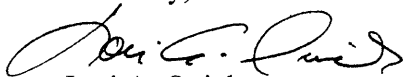
Robert Ventura
V-80485
Corcoran State Prison
P.O. Box 3476
Corcoran, CA 93212-3476

Dear Mr. Ventura,

I have received your letter postmarked January 4, 2008. It appears from your letter that you wish to file a petition for a writ of habeas corpus. As I wrote in my last letter, habeas petitions are considered civil proceedings, even if they arise from a criminal case. Generally, an indigent prisoner is not entitled to appointed counsel to assist with the preparation of a habeas petition. However, if an indigent prisoner files a habeas corpus petition and the court determines the petition states a prima facie case for relief, then due process considerations require the court to appoint counsel to represent the prisoner. (*People v. Barton* (1978) 21 Cal.3d 513, 519 fn. 3; *People v. Shipman* (1965) 62 Cal.2d 226, 232; Cal. Rules of Court, rule 4.551(c)(2).) It appears that you have already filed a habeas petition which was denied. Thus, you are not entitled to appointed counsel. (*People v. Clark* (1993) 5 Cal.4th 750, 783, fn. 20; *Redante v. Yockelson* (2003) 112 Cal.App.4th 1351, 1356.) We do represent indigent defendants on direct appeal when appointed by the Court of Appeal. However, you were sentenced on May 11, 2005. A notice of appeal should have been filed no later than July 10, 2005, two and one-half years ago. (California Rules of Court, rule 8.308(a).) It would be pointless to ask for permission to file a late notice of appeal at this late date.

Typically, when people in your position write to us for help, we advise them to file a habeas petition and we send them the appropriate form. Because you have already filed a petition which was denied, and because we do not represent you on that petition, there is nothing we can do for you. I am sorry we cannot be of more assistance. I wish you the best of luck.

Sincerely,


Lori A. Quick
Staff Attorney

SIXTH DISTRICT APPELLATE PROGRAM

A Non-Profit Corporation

100 N Winchester Blvd., Suite 310
Santa Clara, CA 95050

(408) 241-6171 - Main
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Assistant Director
Dallas Sacher

Law Office Manager
Yolanda Edwards

Staff Attorneys
Lori A. Quick
Vicki I. Firstman
William M. Robinson
Jonathan Grossman
Paul Couenhoven

December 28, 2007

Robert Ventura
V-80485
Corcoran State Prison
P.O. Box 3476
Corcoran, CA 93212-3476

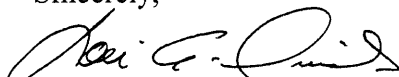
Dear Mr. Ventura,

We have received several documents from you: a petition for writ of habeas corpus filed on July 17, 2007; a handwritten opening brief; a letter from the Court of Appeal declining to file a document for noncompliance with the rules of court; a Superior Court order filed October 3, 2007 denying a petition for writ of habeas corpus; and a request for appointment of counsel. Please be advised as follows.

First of all, I cannot help you with a petition for writ of habeas corpus. Because this is considered a civil proceeding, you are not entitled to appointed counsel. (*People v. Clark* (1993) 5 Cal.4th 750, 783, fn. 20; *Redante v. Yockelson* (2003) 112 Cal.App.4th 1351, 1356.) Although we do represent indigent defendants on direct appeal when appointed by the Court of Appeal, it appears from the paperwork you have sent that the time to file a notice of appeal is long past. Your habeas petition indicates that you were sentenced on May 11, 2005. This means you would have had to file a notice of appeal no later than July 10, 2005. (California Rules of Court, rule 8.308(a).) I can think of no reasonable justification to offer the Court for a failure to take action for two and one-half years, and therefore we cannot request permission to file a late notice of appeal.

I am sorry we could not be of more assistance. I wish you the best of luck.

Sincerely,


Lori A. Quick
Staff Attorney

15

FILED

DEC 26 2007

KIRI TORRE
Chief Executive Officer/Clerk
Superior Court of CA County of Santa ClaraBY [Signature] DEPUTYSUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

In re)

No. CC455119)

ROBERT ELIAS VENTURA,)

O R D E R)

On Motion for Documents)
_____)

ROBERT ELIAS VENTURA has submitted a motion to this Court requesting free copies of various documents, and/or reports contained in his case file, and/or transcripts of the proceedings, which led to his incarceration. The motion/request is DENIED. Petitioner's declaration of indigency, citations to rules of court, Constitutional principles, case law, or statutes, and/or "Application for Waiver of Court Fees and Costs," form is not applicable when, as here, the time for trial and appeal has passed and there is no matter currently pending and active before this Court. (See *People v. Markley* (2006) 138 Cal.App.4th 230, 240-243.)

DATED: 12/26, 2007[Signature]
ARTHUR BOCANEGRA
JUDGE OF THE SUPERIOR COURTcc: Petitioner
District Attorney
CJIC
Research(12-18A)

FILED

OCT 03 2007

KEL TORRE
 Chief Executive Officer
 Superior Court of Santa Clara
 BY [Signature] DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

In re

ROBERT VENTURA,

No.: CC455119

ORDER

ROBERT VENTURA, hereinafter Petitioner, has submitted a petition for writ of habeas corpus. Petitioner claims that the sentencing court violated due process by imposing enhancements on the basis of Petitioner's prior plea bargains. Petitioner also claims that his counsel for a 1989 prior was ineffective for not informing him of all the possible consequences of his plea and his counsel for the present offense was ineffective for not enforcing the terms of his prior plea bargains. In addition, Petitioner cites *California v. Cunningham* (2007) 127 S. Ct. 856 as a basis for his challenge to the court's imposition of consecutive sentences in this case.

Due Process

The case of *People v. Brady* (1995) 34 Cal.App.4th 65 dealt with,

1 and rejected, arguments that there is a due process violation in the
2 application of the strike law.

3 Although the imposition of punishment which, after commission of
4 a crime, is increased or somehow made more onerous violates the ex
5 post facto clause of both the United States and California
6 Constitutions (U.S. Const., art. I, § 10, cl. 1; Cal. Const., Art. I,
7 §9), "[i]ncreased penalties for subsequent offenses . . .
8 attributable to the defendant's status as a repeat offender . . .
9 arise as an incident of the subsequent offense rather than
10 constituting a penalty for the prior offense. [Citations.]" do not.
11 (*People v. Weaver* (1984) 161 Cal.App.3d 119, 124 [207 Cal.Rptr. 419],
12 quoting *In re Foss* (1974) 10 Cal.3d 910, 922 [112 Cal.Rptr. 649, 519
13 P.2d 1073].) *People v. Brady* (1995) 34 Cal.App.4th 65, 72.

14 The defendant in *Brady* had a single strike and therefore his
15 sentence was doubled and he was required to serve 80% of it. His
16 "strike" had been committed prior to the passage of the three strikes
17 law. That court rejected the same claim that Petitioner makes here,
18 by concluding that at the time the defendant had committed the
19 current offense the three strikes law "was in full force and effect.
20 Such gave him notice that he would be treated more severely since he
21 committed a new felony and had previously been convicted of a serious
22 felony. That such 'status' would subject him to subsection (c)(5)'s
23 credit limits was clearly spelled out. No due process or ex post
24 facto violation can be shown." (*Id.*, see also *People v. Hatcher*
25 (1995) 33 Cal.App.4th 1526.)

26 So too in the instant case, since as soon as the strike law came
27 into effect Petitioner had the status of being a striker, Petitioner

1 the defendant has failed to establish any prejudice, then the
2 performance prong need not be reached. (*Strickland v. Washington*,
3 *supra*, 466 U.S. at 697.)

4 Petitioner's claim of ineffective assistance of his prior
5 counsel rests on the assertion that he was not informed that his
6 convictions could be used in future cases to enhance his sentence.
7 However, as noted above, the "three strikes" law had not been enacted
8 at the time of Petitioner's prior plea. Thus, counsel cannot be held
9 ineffective for failing to inform Petitioner of a statutory scheme
10 that was not yet in place.

11 Imposition of Enhancements

12 Contrary to Petitioner's contention, his previous plea
13 bargain(s) do not insulate him from being subjected to enhancement(s)
14 based on the prior conviction(s). Petitioner was not being punished
15 again for the same offense addressed by a previous plea bargain.
16 Rather, Petitioner was punished for being a recidivist. "The purpose
17 of section 667 is to punish repeat offenders regardless of whether
18 they were imprisoned for their previous felony...to impose greater
19 punishment upon recidivists who commit serious felonies." (*People v.*
20 *Jones* (1993) 5 Cal.4th 1142; *People v. Medina* (1988) 206 Cal.App.3d
21 986.) See also *People v. Bernal* (1994) 22 Cal.App.4th 1455, 1457,
22 explaining:

23 When entering a guilty plea, the defendant must be
24 advised of the direct consequences of the conviction.
25 (*Bunnell v. Superior Court* (1975) 13 Cal.3d 592, 604.)
26 However, possible future use of a current conviction is
27 not a direct consequence of the conviction. (*People v.*
Crosby (1992) 3 Cal.App.4th 1352, 1356; see also *People*
v. Lewis (1987) 191 Cal.App.3d 1288, 1301; *Hartman v.*
Municipal Court (1973) 35 Cal.App.3d 891, 893.) A
defendant need not be advised of the possible future
use of a conviction in the event the defendant commits

1 a later crime.


2 As there was no violation in sentencing Petitioner as a recidivist,
3 there was no ineffective assistance of counsel, as alleged by
4 Petitioner, for his attorney's failure to enforce the prior plea
5 agreement.

6 Cunningham

7 Petitioner claims that the court's imposition of consecutive
8 terms violates the Supreme Court's recently articulated rule in
9 *Cunningham v. California* (2007) 127 S. Ct. 856 interpreting its prior
10 decision in *Blakely v. Washington* (2004) 542 U.S. 296. However the
11 *Blakely* rule does not apply to the trial court's decision regarding
12 imposition of consecutive or concurrent sentences. (*People v.*
13 *Sandoval* (2007) 41 Cal.4th 825, 850-851; *People v. Sullivan* (2007)
14 151 Cal.App.4th 524, 567-568.) Thus, Petitioner is not entitled to
15 relief under *Cunningham*.

16 Petitioner's motion, and all requested relief, is DENIED

17
18 DATED: 1 Oct, 2007

19 
PAUL BERNAL
JUDGE OF THE SUPERIOR COURT



20 cc: Petitioner
21 District Attorney
22 Research (7-17B)
23 CJIC
24
25
26
27
28

Office of Internal Affairs

I'm Requesting THAT You Please Help me Out, AND HAVE
 CUMPASSION On me, AND Give me A FAIR Investigation
 WHY WAS I DEPRIVED Access to the Court AND
 too my Family. From 2-14-08 UNTIL 3-4-08 WITHIN
 THE Building 4A-3R-44... (GENERAL MAIL).

I HAVE BEEN IN CORCORAN PRISON SINCE GOING ON MY 3 YEAR.
 AND THIS HAS NEVER BEEN A PROBLEM IN THE PAST —
 WITH ME OR ANY OTHER PRISON.

THIS Problem ONLY ARISS AFTER I FILE A 602 COMPLAINT
 ON PRISON OFFICIAL RIDDLES... AND MY C-FILE WILL SHOW
 CLEARLY THAT I NEVER HAD A HISTORY OF FILING 602
 COMPLAINTS ON ANYONE AND THAT MY BEHAVIOR HAS
 NOT BEEN DISRUPTED WITH ANY RULE VIOLATIONS (EXCEPT)
 ONE INCIDENT WITH MY CELL 2 YEARS AGO...

ALL I'm ASKING, THAT I HAVE FULL ACCESS TO THE COURT AND MY
 FAMILY. AND (THAT THIS RETALIATION AND REPRISAL STOP)
 WITH THE FOLLOWING PRISON OFFICIALS.. RIDDLES, REAL,
VALLEJO, LOZANO, MORANO AND FORTHMOST, (C.O. RATHER)

IF THEY WILL STOP, I WILL WITHDRAW MY COMPLAINT BUT I
 CAN NOT EVEN REACH CONTACT WITH THE BUILDING SERGEANT
 TO RESOLVE THIS PROBLEM. HE HAS DISREGARD ALL MY
 (REQUEST FOR INTERVIEW)

I HAVE REACHED CONTACT WITH DARREL ADAMS, (THE WARDEN)
 BUT THE PRISON OFFICIALS ON THIRD WATCH IN BUILDING 4A-3R.
 HAS LACK OF REGARDS WITH HE HAS TOLD THEM TO DO!

I HAVE MAIL YOU A COPY OF MY 602 COMPLAINTS, BECAUSE I DO NOT
 BELIEVE THEY WILL BE HEARD AND RATHER GET MIS PLACED.

PLEASE CALL DARREL ADAMS, (WARDEN) TO FORCE THESE
 OFFICIALS TO RESPECT MY CONSTITUTIONAL RIGHTS

Thank You Sincerely Submitted
 Ruben V. Vazquez

THE ATTACHED EXHIBITS (AVR) 1002

INMATE - PAROLEE APPEAL FORM

CDC 602 (12/87)

Location: Institution / Parole

Log No.

08-700

Category

3A

NSC 2-808

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

4A3L-41L 4A3R-44

NAME Ventura	NUMBER V-80485	ASSIGNMENT	UNIT/ROOM NUMBER 4A-3L-03
-----------------	-------------------	------------	------------------------------

A. Describe Problem: AT APPROXIMATELY ON 1-31-08, 8:30 PM. DURAN MEDICATION PASS OUT.. I RESPECTFUL REQUEST OFFICER BUSCH ATTENTION: THAT I HAVE LEGAL MAIL TO MAIL OUT TO SUPREME COURT - "DEAD LINE" AND WHEN HE DOES HIS NEXT TRIP AROUND TO PICK UP MAIL, WOULD HE PLEASE BRING THE CART, AND TAPE SO I CAN SEAL UP AND YOU SIGN SO I CAN MAIL OUT TO SUPREME COURT.. I SHOW OFFICER BUSCH, 3 DOUBLE LARGE MANILA ENVELOPES LABEL, LEGAL MAIL IN "BOLD WORDS", WHICH CONTAINED 318 PAGES IN EACH ENVELOPE WHICH CONTAINED SEE EXHIBITS A". ALL IN ORDERLY FASHION.. AFTERWARD - APPROXIMATELY 9:00 PM.

If you need more space, attach one additional sheet.

SEE ATTACHED DOCUMENT DESCRIBE PROBLEM

B. Action Requested: FILING COMPLAINT... RIGHTS AND RESPONSIBILITY STATEMENT CDCR 1858... PURSUANT TO PENAL CODE 148.6

Inmate/Parolee Signature:

Rita Ventura

Date Submitted:

2-4-08

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

BY: 22

08 MAR 28 PM 1:33
CDC - SAN FRANCISCO
APPEALS OFFICE

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim.

CDC Appeal Number:

08-700

First Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 2-11-08 Due Date: 3-21-08

Interviewed by: SEC ATTACHMENTS

Staff Signature: [Signature] Title: 4A3 SUT Date Completed: 2/25/08
 Division Head Approved: [Signature] Returned: 3/14/08
 Signature: [Signature] Title: AW Date to Inmate: 3/14/08

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

SEE ATTACHMENTS AND Supporting Documents, AND EXHIBITS,
WHICH PROVE ALLEGATIONS AND REPRISALS.

EXHIBIT A, B, C... INMATE trying to resolve Problems

EXHIBIT C... (DISSATISFIED)

Signature: [Signature] Date Submitted: 3-24-08

Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 4/2/08 Due Date: 4/30/08

☐ See Attached Letter

Signature: [Signature] Date Completed: 4-18-08

Warden/Superintendent Signature: [Signature] Date Returned to Inmate: 4/21/08

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

For the Director's Review, submit all documents to: Director of Corrections
 P.O. Box 942883
 Sacramento, CA 94283-0001
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other

☐ See Attached Letter

Date: _____

**INMATE/PAROLEE
APPEAL FORM**
CDC 602 (12/87)
CSP - CORCORAN

Location: Institution/Parole Region

Log No.

Category

1. 08-16547

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME <u>Ventura</u>	NUMBER <u>V.80485</u>	ASSIGNMENT	UNIT/ROOM NUMBER <u>4A-3R-44</u>
------------------------	--------------------------	------------	-------------------------------------

A. Describe Problem: AT APPROXIMATELY ON 2-14-08, I WAS REMOVED OUT OF THE I. Y. P. Building, 4A-3L-03, INTO A DISCIPLINARY BUILDING FOR SILENT SITTING (WITHOUT REASON) BY OFFICER RIDDIES. UPON ARRIVAL AND CONTINUES ON THE THIRD WATCH PRISON OFFICIALS IN 4A-3R-44 BUILDING, CLEARLY SPAN IT OUT IN WORDS VERBAL, THAT THEY WILL NOT MAIL ANY LEGAL OR CONFIDENTIAL MAIL OUT FOR ME, THAT I MUST GO TO THE LAW LIBRARY TO HAVE IT DONE. (2-14-08 THRU 3-3-08) THIS IS A VIOLATION OF MY CONSTITUTION RIGHTS FIRST AMENDMENT TO HAVE ACCESS AND EXERCISE MY CORRESPOND CONFIDENTIAL WITH THE COURTS.

If you need more space, attach one additional sheet.

SEE EXHIBITS (A) (B)SEE ATTACHED DOCUMENTS

B. Action Requested: MAIL OUT ALL MY LEGAL AND CONFIDENTIAL DOCUMENTS TO COURTS, UNLIMITED ACCESS TO SUPREME COURTS THROUGH GENERAL MAIL AND FILE A RIGHTS AND RESPONSIBILITY STATEMENT 148.6 ON FLOOR OFFICER ON THIRD WATCH. 4A-3R-BUILDING

Inmate/Parolee Signature: Robert VenturaDate Submitted: 3-3-08

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

BYP/SS

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYP/SS

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

08-1654

First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: Due Date:

Interviewed by:

BYP/SC

Staff Signature: Title: Date Completed:

Division Head Approved: Returned

Signature: Title: Date to Inmate:

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: Date Submitted: 5-2-08

Second Level ☐ Granted ☐ P. Granted ☐ Denied ☒ Other WITHDRAWN 5-2-08

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 4/7/08 Due Date: 5/19/08

☐ See Attached Letter

Signature: Robert Venturo

Warden/Superintendent Signature: Date Completed: 05-02-08 Date Returned to Inmate: 5/20/08

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: Date Submitted:

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other

☐ See Attached Letter

Date:

Office of Internal Affairs

RECEIVED
MAR 18 2008CDCR
Office of Internal Affairs

I'm Requesting That You Please Help me Out. And Have
Compassion on me. And Give me A Fair Investigation
Why Was I Deprived Access to the Court And
Too my Family. From 2-14-08 Until 3-4-08 Within
The Building 4A-3R-44. (General Mail).

I Have Been in Corcoran Prison Since Going on my 3 Year.
And This Has Never Been A Problem in The Past —
with me or Any Other Prison.

This Problem Only Arises After I File A 602 Complaint
ON Prison Official Riddles... And my C-File Will Show
Clearly That I Never Had A History Of Filing 602
Complaints on Anyone And That My Behavior Has
Not Been Disrupted With Any Rule Violations (Except)
One Incident with my Cell 2 Years Ago...

All I'm Asking That I Have Full Access to the Court and my
Family. And (That This Retaliation And Reprisal Stop)
With The Following Prison Officials. RIDDLES, REAL,
VALLJO, LOZANO, MORANO AND FORTHMOST. (C.O. RATHER)

If They Will Stop, I Will Withdraw my Complaint But I
Can Not Even Reach Contact with The Building Sergeant
to Resolve This Problem. He Has Disregard All my
(Request For Interview)

I Have Reached Contact with Darrel Adams, (The Warden)
But The Prison Officials on Third Watch in Building 4A-3R.
Has Lack of Regards with He Has told them to Do!

I Have Mail You A Copy of my 602 Complaints, Because I Do Not
Believe They Will Be Heard And Rather Get Misplaced.

Please Call Darrel Adams, (Warden) to Force These
Officials to Respect my Constitutional Rights

Thank You Sincerely Submitted
Rube & Van Sen

The Attached Exhibits (A)(B) 602

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : April 8, 2008

To : VENTURA V80485
4A3L-58L
Corcoran State PrisonSubject : APPEAL LOG # CSPC-5-08-00700
FIRST LEVEL RESPONSE (AMENDED)

APPEAL ISSUE: On January 31, 2008, at approximately 2030 hours during medication pass out, you respectfully requested Officer Busch's attention. You stated that you had legal mail to mail out to the California Supreme Court that you had a "dead Line." When Officer Busch made his next trip during mail pick up, you asked him to bring the push cart and tape so you could seal and sign the Legal Mail going out to the California Supreme Court. You showed Officer Busch 3 double large manila envelopes which were labeled 'Legal Mail' in bold letters; each envelope containing approximately 318 pages. Instead of Officer Busch returning to pick up your mail Officer Riddle came. From that point on you allege that; Officer Riddle was unprofessional by using improper language while talking to you, was irresponsible in the way he handled your Legal Mail, and that Officer Riddle upon his arrival at your cell was hostile and acted with an angry attitude towards you.

Your action requested is: You want to file a complaint and be given a Rights and Responsible Statement, CDCR 1858, pursuant to Penal Code 148.6.

*****Per the Hiring Authority this appeal does not meet the criteria for assignment as a Staff Complaint and was reassigned as a Mail Issue.*****

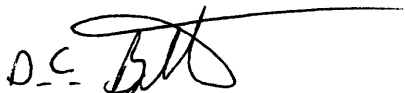
INTERVIEW: On Thursday, February 14, 2008, Correctional Sergeant D. C. Battles interviewed you. Throughout the course of the interview, you were given the opportunity to present your version of the events that took place as well as any additional information and/or documents to support your claims. In order to ascertain the facts, the inquiry regarding this appeal includes your interview, questioning the involved departmental employees, and research of current policies, laws or procedures. During the interview you allege that Office Riddle was unprofessional using improper language while on duty. You further allege Officer Riddle was irresponsible in the way he handled your Legal Mail. On January 31, 2008, you claim you had 954 pages of out-going legal mail in three manila envelopes, 318 pages per envelope. You claim that Correctional Officer Riddle upon his arrival at your cell immediately requested your legal mail with a hostile and angry attitude. You say that you sealed and handed the first envelope to Officer Riddle. You then handed Officer Riddle the second manila envelope to seal with tape because it was too big for you to seal. You assert that Officer Riddle deliberately tossed the envelope onto the cart which according to you

First Level Response
Name Ventura, CDC #V-80485
CSPC-5-08-00700
Page 3

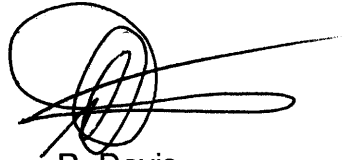
DECISION:

Based on the above circumstances your appeal is **PARTIALLY GRANTED** in that a request for a Rights and Responsible Statement, CDCR 1858, pursuant to Penal Code 148.6 is GRANTED. However, you have not offered any evidence or other information to corroborate your allegations of improper mail handling. All staff are trained in accordance with Operational Procedure #205, Title 15 sec. 3141, 'Confidential Correspondence,' Title 15 sec. 3142 'Processing outgoing Confidential Mail,' and Title 15 sec. 3165 'Mailing Legal Documents'. The Officer's assigned to Facility 4A have been and will continue to adhere to current and approved written policies relative to the handling of mail.

If you are dissatisfied with this decision, you may appeal to the Second Level by following the instructions on your appeal form.



D.C. Battles
Correctional Sergeant
CSP-Corcoran



R. Davis
Associate Warden
CSP-Corcoran

DIVISION OF ADULT INSTITUTIONS

CALIFORNIA STATE PRISON - CORCORAN

P.O. Box 8800
Corcoran, CA 93212



April 18, 2008

Inmate Ventura, V-80485

Re: SECOND LEVEL APPEAL RESPONSE

Log # CSP-C-5-08-00700

Issue: Mail

DECISION: Partially Granted


PROBLEM DESCRIPTION: You claim staffs were unprofessional by using improper language while talking to you and were irresponsible in the way your legal mail was handled.

ACTION REQUESTED: You request to file a complaint and to be given a Rights and Responsible Statement, CDCR 1858, pursuant to Penal Code 148.6.

APPEAL RESPONSE: Staff interviewed you at the First Level Review (FLR). The Hiring Authority designee reviewed your appeal and it was determine that this appeal does not meet the requirement for assignment as a staff complaint. The appeal and attachments were reviewed. You provided no further evidence or documentation to support your claims beyond the information provided at the previous levels of review. Your appeal was reviewed and it was determined that staff provided you with an appropriate response at the Amended FLR. The Amended First Level response provided you with an explanation after a review of the evidence and current policies failed to disclose evidence to support your allegations, your mail was being handled improperly. Staffs are utilizing Operational Procedure 205, Inmate Mail, California Code of Regulations, Title 15, Sections 3141, 3142 and 3165 in the processing of your Confidential and legal documents.

Considering the above information, your requested action is partially granted at the Second Level of Review. Granted is your request for a CDCR 1858 form. Denied is your other requested action.

You should proceed to the next level of administrative review if you seek further relief.


M. Junious
Chief Deputy Warden-Operations
California State Prison-Corcoran

LC

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. 1746)

I, Robert Ventura V-80485, declare that I am over 18

years of age and a party to this action. I am a resident of: C.S.P SHU

4A-3L-03 . . Corcoran State Prison

in the County of: Corcoran

State of California. My prison address is: P.O. Box 3476

Corcoran CA 93212-3476

On 6-12-, 2008, I served the attached: Motion For Rule 8(c) Rule 60(b)
Reconsideration And Amended Motion For Appointment Of Counsel.
No. C 08-01708 SBA (Describe Document) (PR)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named Correctional Institution in which I am presently confined. The envelope is addressed as follows:

U.S. District Court

450 Golden Gate Ave

San Francisco CA 94102-3483

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 6-12-08
(Date)

Ventura
(Declarant's Signature)

ROBERT VENTURA V-80485
P.O. Box 3476 (4A-3L-03)
CORCORAN CA 93212-3476

CORCORAN STATE PRISON



095126504185
\$02.020
06/16/2008
Mailed From: 93212
US POSTAGE

CLERK OFFICE

U.S. District Court
450 Golden Gate Ave
San Francisco CA 94102-3483

LEGAL MAIL